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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,269	11/14/2001	Mark R. Baldock	BAI525-585/01917	7700

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EXAMINER

SHEPARD, JUSTIN E

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/992,269	BALDOCK, MARK R.	
	Examiner	Art Unit	
	Justin E. Shepard	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,5,7,8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,5,7,8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo in view of Donnelly.

Referring to claim 12, Kondo discloses a broadcast data receiver for receiving digital data from one or more broadcaster(s) via satellite, terrestrial or cable transmission systems and for processing the digital data to generate video, audio and/or auxiliary data therefrom (column 5, lines 13-16), said broadcast data receiver comprising:

first and second tuners (column 10, lines 29-36), each tuner controlled to tune to a specified radio frequency to allow the broadcast data receiver to receive a designated data carrier having frequencies selectable and controllably by the broadcast data receiver in response to a user selection (column 5, lines 19-21; column 3, lines 36-42), and if said first tuner is being used to receive data to allow a known channel generated

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from said data to be watched and/or listened to by a user (column 10, lines 29-36), the second tuner can be controlled to scan through a data carrier frequency bandwidth to identify and retrieve service information relating to new and/or known channels (column 10, lines 29-36), the channel scanning is performed in the background and without requiring user initiation, processing means in the broadcast data receiver being arranged to determine when service information relating to new, previously unidentified channels, has been detected by said second tuner and following the detection of a new, previously unidentified channel (column 10, lines 21-25 and 29-36).

Kondo does not disclose a receiver with the background process resulting in an immediate display of a visual and/or audible message via the broadcast data receiver to inform a user of the broadcast data receiver that a new, previously unidentified channel has been detected.

Donnelly discloses a receiver with the background process resulting in an immediate display of a visual and/or audible message via the broadcast data receiver to inform a user of the broadcast data receiver that a new, previously unidentified channel has been detected (column 1, lines 51-53; figure 2, button 605).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the "New Services" button taught by Donnelly to the EPG overlay disclosed by Kondo (figure 2D). The motivation would have been to alert the user to a channel or service that was previously unavailable (column 1, lines 42-44).

Referring to claim 2, Kondo discloses a broadcast data receiver according to claim 12, wherein said service information for which said second tuner is used to scan relates to television and/or radio channel identification information including audio, video and/or auxiliary data (column 2, lines 14-17).

Referring to claim 5, Kondo discloses a broadcast data receiver according to claim 12, wherein said service information retrieved by said second tuner is stored in said memory means of said broadcast data receiver (column 10, lines 21-27).

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo in view of Donnelly as applied to claim 12 above, and further in view of Reitmeier.

Referring to claim 7, Kondo and Donnelly do not disclose a broadcast data receiver according to claim 12, wherein when said second tuner is scanning for service information and is required to receive a designated data stream in response to a user selection, the scanning is suspended and said second tuner is made available for said data stream.

Reitmeier discloses a broadcast data receiver according to claim 12, wherein when said second tuner is scanning for service information and is required to receive a designated data stream in response to a user selection, the scanning is suspended and said second tuner is made available for said data stream (column 8, lines 34-36).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the scanning termination feature taught by Reitmeier to the system disclosed by Kondo and Donnelly. The motivation would have been to enable the extra tuner to perform an additional function such as recording a program or PIP.

Referring to claim 8, Kondo and Donnelly do not disclose a broadcast data receiver according to claim 7, wherein scanning is resumed when said second tuner is no longer required to receive said data stream and when there are no other pending tuning requirements.

Reitmeier discloses a broadcast data receiver according to claim 7, wherein scanning is resumed when said second tuner is no longer required to receive said data stream and when there are no other pending tuning requirements (column 8, lines 29-32).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the scanning termination and resuming features taught by Reitmeier to the system disclosed by Kondo and Donnelly. The motivation would have been to enable the extra tuner to perform an additional function such as recording a program or PIP.

Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo in view of Reitmeier in further view of Donnelly.

Referring to claim 13, Kondo discloses a broadcast data receiver for receiving digital data from one or more broadcaster(s) via satellite, terrestrial or cable transmission system and for processing the digital data to generate video, audio and/or auxiliary data therefrom (column 5, lines 13-16), said broadcast data receiver comprising:

first and second tuners each having at least one function for receiving incoming data stream at particular data carrier frequency from a number of bandwidths, at least one function for receiving an additional data stream; and at least one further function for background scanning of data carrier frequency bandwidths for channel service information (column 10, lines 29-36);

controlling means for the first and second tuners (figure 1, part 42);

memory means for storing identified service information and processing means for comparing instream data tables in the scanned incoming data carrier frequency bandwidths with the identified service information stored in the memory means to determine new service information available to a user (column 10, lines 21-27).

Kondo does not disclose a system wherein each tuner further having an in-use status and an idle status; and

monitoring means for determining the status of each of said first and second tuners; if said monitoring means determines that first tuner status is in-use and second tuner status is idle, then second tuner can be controlled by said broadcast data controlling means without requiring user initiation to background scan incoming data

carrier frequency bandwidths for service information to determine whether new service information has been identified;

message means for informing the user during the background scanning when new service information containing a bandwidth frequency of a new channel has been identified.

Reitmeier discloses a system wherein each tuner further having an in-use status and an idle status (column 8, lines 29-32); and

monitoring means for determining the status of each of said first and second tuners; if said monitoring means determines that first tuner status is in-use and second tuner status is idle, then second tuner can be controlled by said broadcast data controlling means without requiring user initiation to background scan incoming data carrier frequency bandwidths for service information to determine whether new service information has been identified (column 8, lines 29-32, 41-43, and 51-53).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the tuner idle states taught by Reitmeier to the system disclosed by Kondo. The motivation would have been to enable the extra tuner to perform an additional function such as recording a program or PIP.

Kondo and Reitmeier do not disclose a system with a message means for informing the user during the background scanning when new service information containing a bandwidth frequency of a new channel has been identified.

Donnelly discloses a system with a message means for informing the user during the background scanning when new service information containing a bandwidth

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frequency of a new channel has been identified (column 1, lines 51-53; figure 2, button 605).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the "New Services" button taught by Donnelly to the EPG overlay disclosed by Kondo (figure 2D). The motivation would have been to alert the user to a channel or service that was previously unavailable (column 1, lines 42-44).

Referring to claim 10, Kondo does not disclose a broadcast data receiver according to claim 13, wherein said scanning operates continuously when said second tuner is available.

Reitmeier discloses a broadcast data receiver according to claim 13, wherein said scanning operates continuously when said second tuner is available (column 8, lines 51-53).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the tuner idle states taught by Reitmeier to the system disclosed by Kondo. The motivation would have been to enable the extra tuner to perform an additional function such as recording a program or PIP.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo in view of Reitmeier in further view of Donnelly as applied to claim 13 above, and further in view of Yoshinobu.

Referring to claim 11, Kondo, Reitmeier, and Donnelly do not disclose a broadcast data receiver according to claim 9 wherein said scanning operates at spaced time intervals.

Yoshinobu discloses a broadcast data receiver according to claim 9 wherein said scanning operates at spaced time intervals (column 16, lines 4-5).

At the time of the invention it would have been obvious to one of ordinary skill in the art to scan the channels at timed intervals, as taught by Yoshinobu, in the system disclosed by Kondo, Reitmeier, and Donnelly. The motivation would have been to enable the system to scan the channels at night when no one would be using the system to watch TV, and therefore the second tuner would be free to tune to a second channel.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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